JKE-R (PROCEDURE) - EXPULSION HEARING AND REENTRY GUIDELINES

I. Expulsion Hearing Guidelines
The following steps constitute general guidelines for the conduct of an expulsion hearing. The guidelines may be adjusted to meet the flexible requirements of due process on a case-by-case basis, consistent with applicable laws

I. Procedure for Conduct of Board Hearing to Expel

1. Any discussion, consideration, or hearing by the School Board of suspension or expulsion of a student shall be in executive session.

2. The Board shall be in a public meeting and vote to enter into executive session. Executive session requires a 3/5 affirmative vote of the members present and voting, and the vote must be recorded.

3. The parents/legal guardians, the student, and legal counsel or other representative (if any) must be present for the hearing, except that the hearing may go forward if the parents/guardians and student have been provided prior written notice and failed to appear for the hearing.

II. Executive Session

1. General Rules of Conduct

a. The hearing officer (Board Chair/designee or Board attorney) will conduct the hearing.

b. Witnesses shall be sequestered in response to a request by either party.

c. The hearing officer will state “no irrelevant or repetitious evidence will be allowed and no debate between the parties will be allowed.”

d. The hearing officer will state that “all parties are expected to maintain the confidentiality of the proceeding.”

e. The School Board and student (at their own expense) may be represented by legal counsel through each stage of the process.

2. Procedures

f. The hearing officer will state for the record:

i. Date of this hearing;

ii. Place of hearing;

iii. Time of hearing;

iv. Name of student;

v. Those in attendance for the administration;

vi. Those in attendance for the student; and

vii. Those in attendance for the School Board.

g. The hearing officer will request from the Superintendent a copy of the hearing notice, read the hearing notice to the School Board, and include the notice in the record. If no person appears at the hearing on behalf of the parents/legal guardians or student, the hearing officer will request that the Superintendent confirm that the parents/guardians and student were provided notice of the hearing.

h. The Superintendent/designee, hereafter called "the administration," will make an opening statement that includes an overview of the evidence, the Superintendent's recommendation, the reason(s) for the recommendation, and the legal basis for the recommended expulsion.

i. The hearing officer will inform the student and parents/legal guardians of their rights:

i. To hear the evidence;

ii. To cross examine witnesses; and

iii. To present witnesses and offer other relevant evidence.

j. The hearing officer will ask if any member of the Board finds themself in a possible conflict of interest situation because the member knows the student or parents/guardians to such an extent, or has knowledge of the facts to such an extent, that the member could not impartially hear the facts and decide the issue on its merits.

k. All witnesses shall be sworn in by the hearing officer. Each witness raises their right hand and is asked, "Do you solemnly affirm to tell the truth, the whole truth and nothing but the truth?"

l. The administration calls its witnesses.

m. After each witness has answered all questions put by the administration, then the student/designee (hereinafter, the student) may cross-examine. This should be limited to questions and not arguments with the witness.

n. The administration may ask rebuttal questions after the student finishes questioning.

o. Members of the Board may ask questions at the conclusion of the rebuttal.

p. The student may then call their own witnesses to testify, and the student may testify. All witnesses will be sworn. The administration may cross- examine witnesses. The student may ask rebuttal questions. After the rebuttal questions, the Board may ask questions.

q. When all the student's witnesses have completed testimony (including the student), the administration may call additional rebuttal witnesses who may be cross-examined.

r. At the end of the testimony, the administration shall make a statement which should include its recommendations. The same may then be done by/for the student.

s. The Board should then deliberate in executive session. The Superintendent, Board attorney, administration, the student charged, their parents/legal guardians, and the student's legal counsel may remain for deliberations. If the student and representatives elect not to be present during deliberations, the administration will also be excluded from deliberations,

except that the Superintendent may remain to provide guidance to the Board if the Superintendent was not directly involved in the investigation/presentation of evidence.

t. The Board shall discuss whether the charges are more likely than not supported by the evidence presented. The Board may discuss and/or draft proposed finding of fact(s) concerning the charges prior to leaving the executive session.

u. If the charges are more likely than not supported, the Board shall discuss whether an expulsion shall be for a specified period of time or for an indefinite period.

v. The Board shall then leave executive session.

III. Public Session

1. In public session, a member of the Board may make a motion to "expel a student and direct the Superintendent to provide the student and their parents/guardians with the Board's finding of fact(s)." Following a second, the Board Chair should state the motion and the Board should vote. If no motion is made to expel, the student will return to school at the conclusion of the previously imposed administrative suspension.

2. If the student is expelled, a member of the Board shall make a motion as to whether the expulsion shall be for a specified period of time or for an indefinite period. If the expulsion is for an indefinite period, the Board may authorize the Superintendent to develop a reentry plan for the student as described in Section II below.

3. The Superintendent is responsible for notifying the parents/legal guardians and the student of the Board's decision.

II. Reentry Plan Guidelines

If the Board expels a student for an indefinite period of time and authorizes the Superintendent to develop a reentry plan, the following steps are required by law:

I. The Superintendent/designee shall develop the reentry plan in consultation with the student and the student's parents/legal guardians to provide guidance that helps the student understand what the student must do to establish satisfactory evidence that the behavior that resulted in the expulsion will not likely recur.

1. The Superintendent/designee shall send a certified letter or hand deliver a letter to the parents/legal guardians of the student, giving the date, time, and location of a meeting to develop a reentry plan.

2. If the student and the student's parents/legal guardians do not attend the meeting, the reentry plan must be developed by the Superintendent/ designee.

3. The reentry plan may require the student to take reasonable measures determined by the Superintendent that will help establish the student's readiness to return to school. Professional services determined to be necessary by the Superintendent must be provided at the expense of the student's parents/legal guardians and/or the student. (See Policy JKF for requirements related to students with disabilities.)

4. The reentry plan must be provided to the parents/legal guardians and the student.

5. The Superintendent shall designate an appropriate school employee to review the student's progress with the reentry plan at one month, three months, and six months after the initial reentry plan meeting, and at other times as determined necessary by the designated employee, in consultation with the Superintendent.

Legal Reference:

- 20-A MRS §§ 1001 (8A), (9C)

Cross Reference:

- JKE – Expulsion of Students
- JKF – Disciplinary Removals of Students with Disabilities

Adopted:

- May 13, 2003

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